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November 8, 2013

BY HAND DELIVERY AND ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

**Re: Ex Parte Filing by Hiawatha Broadband Communications, Inc.
("HBC, Inc.") in Response to the CenturyLink Responses to CAF I
Round 2 Challenges and Request for Confidential Treatment; WC
Docket No. 10-90**

Dear Ms. Dortch:

HBC, Inc., by its attorneys, hereby submits an original and four (4) copies of the enclosed *ex parte* filing and exhibits in response to the CenturyLink Responses to the Connect America Fund Phase I Round 2 Challenges. In addition, HBC, Inc. submits a request for confidential treatment of the identified portions of the filing. Please date-stamp and return the additional copy of the request for confidential treatment and confidential version of the *ex parte* filing. A redacted version of the filing is being submitted electronically in ECFS today.

KELLEY DRYE & WARREN LLP

Ms. Marlene H. Dortch
November 8, 2013
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Please direct any questions as to this matter, including the request for confidential treatment, to the undersigned.

Respectfully submitted,



Thomas Cohen
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Enclosure

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("HBC, Inc.") in Response to the CenturyLink Responses to CAF I
Round 2 Challenges; Request for Confidential Treatment; WC
Docket No. 10-90**

Dear Ms. Dortch:

HBC, Inc., by its attorneys, hereby requests confidential treatment of the enclosed response to the CenturyLink Responses to Connect America Fund Phase I Round 2 Challenges and exhibits. The confidential version of this filing is being submitted to the Secretary and has been marked "CONFIDENTIAL – NOT FOR PUBLIC INSPECTION." The public version of the filing is being submitted through ECFS with the confidential information redacted.

The enclosed filing contains proprietary and confidential information. Such competitively sensitive information is exempted from mandatory disclosure under "Exemption 4" of the Freedom of Information Act ("FOIA"),¹ and Section 0.457(d) of the Commission's rules.² Exemption 4 allows the withholding of commercial or financial information that is

¹ See 5 U.S.C. § 552(b)(4). Public disclosure is not required for "trade secrets, commercial or financial information obtained from a person and privileged and confidential." *Id.*

² 7 C.F.R. § 0.457(d). See *National Parks and Conservation Ass'n. v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) ("National Parks"); Southern Company Request for Waiver of Section 90.629 of the Commission's Rules, 14 FCC Rcd 1851, 1860 (1998) ("Southern Company").

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privileged or confidential.³ The confidentiality requirement is satisfied if substantial competitive injury would likely result from disclosure.⁴ Accordingly, pursuant to Section 0.459 of the Commission's rules,⁵ HBC, Inc. requests that the enclosed filing be withheld from public inspection.

The customer billing information for which HBC, Inc. requests confidential treatment is proprietary and competitively sensitive commercial information.⁶ The market for broadband services, including the services provided and to be provided by HBC, Inc., is highly competitive.⁷ The confidential information reveals details about HBC, Inc.'s customers and business relationships, the disclosure of which would cause great harm to HBC, Inc.⁸ HBC, Inc. will derive independent economic value from the fact that significant, detailed proprietary information regarding HBC, Inc.'s customer addresses and communications services purchased are unknown to its competitors.⁹ Moreover, failure to treat HBC, Inc.'s customer information as confidential would provide competitors with an unfair competitive advantage by being granted access to HBC, Inc.'s proprietary information.¹⁰ The information contained in the identified portions of the enclosed filing is provided only to those employees and contractors that require such information to perform the requirements of their duties to HBC, Inc.¹¹ and is not ordinarily made available to the public by HBC, Inc.¹² The information that is the subject of this confidential treatment request is not part of the public record in any jurisdiction. HBC, Inc. requests that the identified portions of the enclosed filing not be made routinely available for public inspection at any time.¹³

³ 5 U.S.C. § 552(b)(4).

⁴ See *Public Citizen Research Group v. FDA*, 704 F. 2d 1280, 1290-91 (D.C. Cir. 1983) ("*Public Citizen*").

⁵ See 47 C.F.R. § 0.457 and 47 C.F.R. § 0.459.

⁶ See 47 C.F.R. § 0.459(b)(3).

⁷ See 47 C.F.R. § 0.459(b)(4).

⁸ See 47 C.F.R. § 0.459(b)(5).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See 47 C.F.R. § 0.459(b)(6).

¹² See 47 C.F.R. § 0.459(b)(7).

¹³ See 47 C.F.R. § 0.459(b)(8).

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Ms. Marlene H. Dortch
November 8, 2013
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Please direct any questions as to this matter, including the request for confidential treatment, to the undersigned.

Respectfully submitted,



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cc: Ryan Yates

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REDACTED VERSION – FOR PUBLIC INSPECTION

November 8, 2013

BY ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: *Ex Parte* Filing by Hiawatha Broadband Communications, Inc. (“HBC, Inc.”) in
Response to the CenturyLink Responses to CAF I Round 2 Challenges, WC Docket
No. 10-90**

Dear Ms. Dortch:

In CenturyLink’s November 4, 2013 responses to CAF I Round 2,¹ it argued that HBC, Inc.’s challenge² should be denied despite the fact that HBC, Inc. submitted a signed certification from its CEO/President swearing under penalty of perjury that it provides broadband service in excess of 3 Mbps downstream and 768 kbps upstream in locations in the four relevant census blocks where CenturyLink seeks Phase I incremental support.³ CenturyLink claims that the certification is insufficient because HBC, Inc. “does not provide any supporting evidence to its conclusory assertion of service.”⁴ CenturyLink noted in particular that HBC, Inc. had not supplied “any map reflecting its coverage area with respect to the challenged census blocks,” “any customer bills or identification of specific customer locations,” and “any supporting evidence of the speed of the service it provides to customers.”⁵

¹ See CenturyLink Responses to CAF I Round 2 Challenges, WC Docket No. 10-90 (Nov. 4, 2013) (“CenturyLink Response”).

² See Hiawatha Broadband Services Challenge to Connect America Fund, Phase 1 Round 2 for Certain Census Blocks, WC Docket No. 10-90 (Sept. 9, 2013).

³ The four census blocks are located in Minnesota and have the following FIPS numbers: 270490803002001, 270490803002014, 270490803002029, and 270490803002074.

⁴ CenturyLink Response at 17-18.

⁵ *Id.* at 17.

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HBC, Inc. herein responds to each of CenturyLink's points and provides in attachments the following evidence demonstrating – in combination with the sworn certification – that it is providing broadband service at speeds of at least 3 Mbps downstream and 768 kbps upstream to residential customers in each of the four relevant census blocks:⁶

- A Service Area Map, with fiber routes, generated on November 5, 2013, showing locations in all the relevant census blocks that are served by HBC, Inc.'s FTTH GPON network.
- A chart showing HBC, Inc.'s broadband service offerings in the relevant census blocks, the lowest tier of which is 5 Mbps symmetrical.
- Bills sent on November 2, 2013 by HBC, Inc. to a sampling of customers in the relevant census blocks that take at least the lowest tier of broadband service.

HBC, Inc. submits that this evidence is more than sufficient to support its claim of providing the required broadband service in the relevant census blocks. Accordingly, CenturyLink should not receive CAF Phase I, Round 2 support in these four areas.

Should you have any questions about this information or require additional information, please let me know. This letter is being filed electronically pursuant to section 1.1206 of the Commission's rules.

Sincerely,



Thomas Cohen
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3050 K Street N.W.
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*Counsel for Hiawatha Broadband
Communications, Inc.*

Attachments: Service Area Map, Service Chart, Customer Bills

cc: Ryan Yates

⁶ This supporting evidence complies with the Commission's requirements set forth in the Report and Order providing for Phase I incremental support in 2013. (*See Connect America Fund*, Report and Order, WC Docket No. 10-90 ¶ 33 (rel. May 22, 2013).

EXHIBIT A

Hiawatha Broadband Service Area

Broadband over FTTH GPON



This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. Created From Goodhue County Online Mapping Site. Sources: Goodhue County, MN. Map Created: 11/5/2013

EXHIBIT B

HBC Wacouta Internet

High Capacity
Large number of simultaneous users or if you just want to do it **FASTER!**

	Essential	Pro	Max	Max Plus	Max Turbo
Monthly Rate	\$26/month	\$35/month	\$55/month	\$85/month	\$139/month
Download Speeds Up To	5 Mbps	15 Mbps	25 Mbps	50 Mbps	100 Mbps
Upload Speeds Up To	5 Mbps	15 Mbps	25 Mbps	50 Mbps	100 Mbps
Email	•	•	•	•	•
Downloading Music	•	•	•	•	•
Social Networking	•	•	•	•	•
Sharing Photos	•	•	•	•	•
Online Gaming	•	•	•	•	•
Online Conferencing		•	•	•	•
Watching TV/Video Clips		•	•	•	•
Emailing/Uploading Photos		•	•	•	•
Downloading Movies		•	•	•	•
Streaming Video - Single User		•	•	•	•
Streaming Video - Simultaneous Users			•	•	•
High-Capacity Online Gaming				•	•
Video Conferencing				•	•

Want more? Gigabit speeds are now available!

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REDACTED FOR PUBLIC INSPECTION

EXHIBIT C

**CONFIDENTIAL DOCUMENT –
WITHHELD FROM PUBLIC INSPECTION**